ASSISTIVE TECHNOLOGY ACT OF 1998, AS AMENDED

Public Law 108-364

PURPOSE:

The 2004 amendments to the Assistive Technology Act of 1998 supports State efforts to improve the provision of assistive technology to individuals with disabilities through comprehensive statewide programs of technology-related assistance, for individuals with disabilities of all ages, …

To provide States with financial assistance that supports programs designed to maximize the ability of individuals with disabilities and their family members, guardians, advocates, and authorized representatives to obtain assistive technology devices and assistive technology services.

BASICS:

- Program is authorized for 6 years (2005-2010)
- Sunset provision has been eliminated.
- Funds under the AT Act shall not be used for direct payment for an assistive technology device for an individual with a disability.
- Federal and State agencies are not authorized to reduce medical or other assistance or alter eligibility for a benefit or service under any federal law as a result of the AT Act.
- States must provide an assurance that the funds received through the grant will be used to supplement, and not supplant, funds available from other sources for technology related assistance, including the provision of assistive technology devices and assistive technology services.
- Any authorized activity carried out and supported by federal funds received under the Act must comply with Section 508.
- Covers people with disabilities of all ages, all disabilities, in all environments (early intervention, K-12, post-secondary, vocational rehabilitation, community living, aging services, etc.)
- Activities implemented under the Act address the needs of "targeted individuals and entities"

  (A) individuals with disabilities of all ages and their family members, guardians, advocates, and authorized representatives;
  (B) underrepresented populations, including the aging workforce;
  (C) individuals who work for public or private entities (including centers for independent living described in part C of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796f et seq.), insurers, or managed care providers) that have contact, or provide services to, with individuals with disabilities;

(D) educators at all levels (including providers of early intervention services, elementary schools, secondary schools, community colleges, and vocational and other institutions of higher education) and related services personnel;
(E) technology experts (including web designers and procurement officials);
(F) health, allied health, and rehabilitation professionals and hospital employees (including discharge planners);
(G) employers, especially small business employers and providers of employment and training services;
(H) entities that manufacture or sell assistive technology devices;
(I) entities that carry out community programs designed to develop essential community services in rural and urban areas; and
(J) other appropriate individuals and entities, as determined for a State by the State.

STATE AT PROGRAM COMPONENTS & REQUIREMENTS:

ADVISORY COUNCIL - State AT Programs are required to establish an advisory Council to provide "consumer-responsive, consumer-driven advice" for the planning, implementation and evaluation of programs.

- Members of the Advisory Council must be appointed no later than 120 days after the enactment of the law (February 22, 2005).
- Specified Composition of Advisory Council:
  - individuals with disabilities that use assistive technology or the family members or guardians of the individuals;
  - a representative of the State Vocational Rehabilitation agency;
  - a representative of a State center for independent living
  - a representative of the State workforce investment board;
  - a representative of the State educational agency; and,
  - representatives of other State agencies, public agencies, or private organizations, as determined by the State.
- A majority (51%) must individuals with disabilities that use assistive technology or the family members or guardians of the individuals
- Individuals appointed to represent II-VI above cannot count towards the majority requirement.
- The advisory council shall be geographically representative of the State and reflect the diversity of the State with respect to race, ethnicity, types of disabilities across the age span, and users of types of services that an individual with a disability may receive.
- Exemption - States that have statutes, rules, or official policies in place relating to advisory bodies, and governing bodies of incorporated agencies who carry out State assistive technology programs are not required to make changes.

REQUIRED PROGRAM ACTIVITIES

State Level Activities:

- AT least 60 percent of the funds received by each state AT program must support the following activities:
  - State finance systems (includes alternative finance programs)
  - Device reutilization programs
  - Device loan programs
  - Device demonstrations

State Leadership Activities:

- A maximum of 40 percent of the State's federal allocation can be used for the following required activities
  - Training and technical assistance
    - General awareness
    - Skills-development training
    - Use and application training
    - Assessment and implementation training
    - Technical integrating training
    - Transition assistance to individuals with disabilities– a minimum of 5 percent of the 40 percent must be directed to this area. See explanation of requirement that follows.
  - Public awareness
    - Communication between providers and users
    - Dissemination of information to targeted individuals
    - Statewide information and referral system
  - Coordination and collaboration- coordination with entities responsible for policies, procedures, or funding for AT devices and services.

St***ate Flexibility Provisions:***

- Allows a state to devote 70 percent or more of its grant, to <u>two or more</u> of the State Level Activities.
  - State finance systems (includes alternative finance programs)
  - Device reutilization programs
  - Device loan programs
  - Device demonstrations
- If a state chooses to use 70 percent of its federal dollars for state level activities, it can spend a maximum of 30 percent of its federal funding on State Leadership Activities.
- Programs are not required to use their federal dollars to perform state-level activities if the state program:
  - Already performs the activity with state or non-federal financial resources; and
  - The level of non-federal support is comparable to the amount that would be expended if the state were to use federal funding.

Transition Assistance to Individuals with Disabilities

- The 5% requirement for Transition Activities (see State Leadership Activities) still applies if a state uses this flexibility provision.
- The State shall directly, or provide support to public or private entities to, develop and disseminate training materials, conduct training, facilitate access to assistive technology, and provide technical assistance, to assist—(aa) students with disabilities, within the meaning of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), that receive transition services; and (bb) adults who are individuals with disabilities maintaining or transitioning to community living.

ANNUAL PROGRESS REPORT & REQUIRED DATA COLLECTION

- Each state AT Program is required to prepare and submit to the Secretary an annual progress report.
- Programs shall collect and report the following data:

  State Level Activities

  - *Alternative Financing Programs*
    - The amount and type of financial assistance given to participants in the *alternative financing programs* including:
      - Number of applications for assistance
      - Number of applications approved and rejected
      - Default rate
      - Range and average interest rate
      - Average income for approved applicants
      - Type and value of devices financed
  - *Device Loan Program*
    - Number, type and length of loans made to individuals with disabilities, employers, public agencies, or public accommodations, including any analysis of individuals that have benefited from the program.
  - *Device Exchange Program*
    - Number, type and estimated value and scope of devices exchanged, repaired, recycled, or re-utilized (including redistributed though device sales, rentals or donations) including an analysis of individuals that have benefited from the program.
  - Device Demonstration Program
    - Number and type of device demonstrations and referrals including an analysis of individuals with disabilities who have benefited from the program.

  State Leadership Activities

  - *Training*
    - The number and general characteristics of those who participated in training activities (e.g., individuals with

disabilities, parents, guardians, employers, policy makers, vendors)
        - Where feasible, their geographic distribution
- *Technical Assistance*
    - The amount and nature of technical assistance provided to state and local agencies and other entities.
- *Public Awareness and Information & Referral*
    - The number of individuals assisted through public-awareness related activities
- *Policy Advocacy*
    - Outcomes of any improvement initiatives related to policy, practices, and procedures that the state has developed and implemented regarding access to, provision of, and funding for AT devices and services in the contexts of education, health care, employment, community living, and information technology and telecommunications including e-government.
- *Leveraged Funding*
    - The source of leveraged funding or other contributed resources, subcontracts, or other collaborative resource-sharing agreements from and with public and private entities.
    - The number of individuals served with those resources (not previously reported)
    - Other outcomes accomplished as a result of activities with said resources.
- *Customer Satisfaction*
    - Levels of customer satisfaction with the services provided.

ALTERNATIVE FINANCING PROGRAMS:

Special Funding Rule For FY2005

- The legislation makes a special allowance for FY2005 allowing the Secretary to make competitive one-year grants to alternative finance programs to develop, support, expand, or administer an alternative financing program in accordance with Title III of the Assistive Technology Act of 1998. These grants may only be awarded for FY2005.

ADMINISTRATIVE COMPONENTS:

STATE ADMINISTRATIVE REQUIREMENTS:

- Indirect costs are limited to no more than 10 percent of each state's grant award.
- Programs operating under their fiscal year 2004 funds must administer their program in accordance with the AT Act of 1998. With the exception of convening the Advisory Council, states are not obligated to establish their program in accordance with the AT Act of 2004 until they receive their fiscal year 2005 funds.

- The state Governor appoints a lead agency and, if necessary, an implementing entity. The implementing entity, if different from the lead agency, can be an agency, office or other entity.
    - Lead agency is a public entity that controls and administers the federal funds disbursed to the state; Implementing entity carries out the program in the state.
- If the Governor can show good cause, and obtain the approval of the Secretary, they can redesignate the lead or implementing agency.
- The lead or implementing agency, as of the date of enactment of the AT Act of 2004 remains the lead and implementing agency under the AT Act of 2004.

FEDERAL ADMINISTRATION REQUIREMENTS:

- The US Department of Education (DOE) maintains responsibility and authority to administer the Act. However, the administration of the AT Act moves from the National Institute on Disability and Rehabilitation Research (NIDRR) to the Assistant Secretary for Special Education and Rehabilitation Services (OSERS) acting through the Rehabilitation Services Administration (RSA).
    - RSA has 6 months to transition the programs from NIDRR.
- The Secretary of Education is obligated to submit an annual report (not later than December 31 of each year) on the activities funded under the Act to the President, the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.
- The bill includes a clause stating the requirement of RSA to ensure that programs funded under this program will address the needs of individuals with disabilities of all ages in all environments.

AUTHORIZED FUNDING:

- The Act authorizes "such sums as may be necessary" be appropriated to the AT programs for state grants and national activities and authorizes the Assistive Technology Act for fiscal years 2005 through 2010.
- State Minimum Awards
    - The AT Act sets a minimum funding level of $410,000 for each state program and $125,000 for outlying areas.
    - Currently the average state grant award is $350,000
- Until the program minimums are reached, money appropriated beyond the base year is distributed in the following manner:
    - 50% is disbursed equally to all the states and outlaying area; and
    - 50% is disbursed according to a state's population (if your state's population is 25% of the national population, you would receive 25% of this share of the funds).
- Once the program minimums are reached, grant monies are is distributed in the following manner:
    - 80% of the funds are distributed proportionally according to population; and
    - 20% of the funds are distributed equally amongst all states.